

REMARKS/ARGUMENTS

Claims 28, 31 and 34 have been amended. Claims 28-34 are pending in the application.

Claims 28-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kidder (U.S. Patent 6,363,413) in view of Watanabe (U.S. Patent 6,430,354).

Amended independent claim 28, in relevant part, recites:

a network interface for receiving an upgrade request from a user for content data previously downloaded by the user from the content server as base data of a first format; wherein the upgrade request specifies a target format of a higher quality than the first format and the target format is from at least one predetermined format

(Emphasis added). Accordingly, a content server for distributing upgraded content data of claim 1 may receive an upgrade request from a user for content data previously downloaded by the user from the content server as base data of a first format. Claim 1 further requires that the upgrade request "specifies a target format of a higher quality than the first format," and that the target format is "from at least one predetermined format." (emphasis added, see specification, for example, pg. 27, ln. 24-pg. 28, ln. 8).

The applied portions of Kidder and Watanabe do not appear to disclose the above-described features that the upgrade request specifies a target format from at least one predetermined format, as now specifically recited in independent 28.

Accordingly, for at least this reason, independent claim 28 is distinguishable over the applied combination of Kidder and Watanabe.

In addition, amended independent claims 31 and 34, which include limitations corresponding to those of claim 28 described above, also are distinguishable over Kidder and Watanabe as applied by the Examiner for at least the same reasons.

Further, dependent claims 29, 30, 32, and 33, which depend from one of independent claims 28 and 31, are patentable over the applied combination of Kidder and Watanabe for at least the same reasons as discussed in connection with the independent claims, and because of the additional restrictions they require.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,
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